



May 30, 2013

Ms. Carolyn N. Lerner
Special Counsel
U.S. Office of Special Counsel
1730 M Street, Suite 300
Washington, DC 20036-4505

Dear Ms. Lerner:

This is in response to your letter to Secretary Kathleen Sebelius dated January 25, 2013, regarding the Office of Special Counsel File Number DI-12-3610 (OSC File No. DI-12-3610). This letter addresses the allegation asserted by Ms. Evelyn Brown, a former employee of The Department of Health and Human Services (the "Department"), that the Department "failed to prepare and submit to Congress mandatory No FEAR Act Reports from 2003 through 2012." The Secretary of Health and Human Services has delegated to me the authority to sign this report and to take actions necessary under 5 U.S.C. § 1213(d)(5).

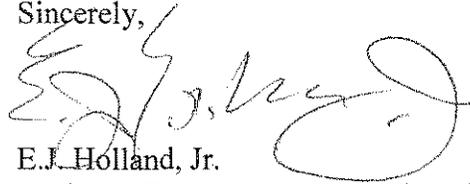
The Notification and Federal Employee Anti-discrimination and Retaliation Act (the "No FEAR Act" or the "Act"), Public Law No. 107-174, was signed into law by President George W. Bush on May 15, 2002, and became effective on October 1, 2003. Under the act, each federal agency is required to (a) provide "written notification of the rights and protections" afforded under the law to applicants and current and former employees, (b) prepare and submit to Congress, and other delineated agencies, an annual report concerning acts of discrimination and (c) compile and post on its public website "summary statistical data related to equal employment opportunity complaints filed" with the agency. 5 U.S.C. § 2301.

Upon receipt of your letter, personnel in the Department's Office of Human Resources initiated an investigation. After a thorough review of the records and completing interviews with Ms. Brown and current and former leadership personnel, they determined that the Department was not fully compliant with the statute. Specifically, the investigation revealed that, although we provide written notification to applicants and current and former employees and post summary statistical data regarding equal employment opportunity complaints, we did not get the reports filed. To ensure against future violations, I have assigned the responsibility of managing the reports to the Diversity and Inclusion Division and implemented new procedures.

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U.S. OFFICE OF
SPECIAL COUNSEL
WASHINGTON, D.C.

If you have any further questions or concerns, please contact Wilfredo Sauri, Director of the Diversity and Inclusion Division in the Office of Human Resources, at wilfredo.sauri@hhs.gov or via phone at 202.690.7137.

Sincerely,

A handwritten signature in black ink, appearing to read "E.J. Holland, Jr.", written over a faint, illegible background.

E.J. Holland, Jr.

Assistant Secretary for Administration